

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**ELMER KEITH TAYLOR,**

**Plaintiff,**

**v.**

**Case No. 06-C-0622**

**MILWAUKEE COUNTY GENERAL HOSPITAL,**

**Defendant.**

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**DECISION AND ORDER**

Plaintiff Elmer Keith Taylor, who is proceeding pro se, lodged this civil rights complaint against Milwaukee County General Hospital. By order of August 28, 2006, plaintiff's request for leave to proceed in forma pauperis was denied because he has accumulated three strikes and because he failed to satisfy the imminent danger exception to 28 U.S.C. § 1915(g). Consequently, plaintiff was ordered to forward to the Clerk of Court by September 29, 2006, the \$338.82 balance of the full filing fee. Plaintiff was advised that failure to pay the filing fee within the designated time would result in dismissal of this action. To date, plaintiff has not paid the \$338.82 balance of the filing fee.

A review of the docket in this case reveals that by letter of September 7, 2006, plaintiff indicates that he is indigent and desires additional time to pay the filing fee. However, since plaintiff has "struck out" pursuant to 28 U.S.C. § 1915(g), he may not bring a civil action without first paying the full \$350.00 filing fee. See Newlin v. Helman, 123 F.3d 429, 432 (7th Cir. 1997) ("the partial-prepayment mechanism under §1915(b) applies only when a prisoner has been allowed to proceed in forma pauperis...otherwise full payment is essential."). Accordingly, this case will be dismissed without prejudice for failure to timely

pay the full filing fee.

Regardless, plaintiff is still obligated to pay the \$338.82 balance of the filing fee. Newlin, 123 F.3d at 436-37. Furthermore, plaintiff is hereby advised that any appeal of this order will obligate him to pay the \$455.00 appellate filing fee. Id.

**NOW, THEREFORE, IT IS ORDERED** that the Clerk of Court enter judgment dismissing the plaintiff's claims and this action without prejudice.

**IT IS FURTHER ORDERED** that this dismissal will not be counted as a "strike" under 28 U.S.C. § 1915(g).

**IT IS ALSO ORDERED** that the Secretary of the Wisconsin Department of Corrections or his designee shall collect from plaintiff's prison trust account the \$338.82 balance of the filing fee by collecting monthly payments from plaintiff's prison trust account in an amount equal to 20% of the preceding month's income credited to the prisoner's trust account and forwarding payments to the clerk of the court each time the amount in the account exceeds \$10 in accordance with 28 U.S.C. § 1915(b)(2). The payments shall be clearly identified by the case name and number assigned to this action.

**IT IS ORDERED** that copies of this order be sent to the warden of the institution where the inmate is confined and to Corey F. Finkelmeyer, Assistant Attorney General, Wisconsin Department of Justice, P.O. Box 7857, Madison, Wisconsin, 53707-7857.

Dated at Milwaukee, Wisconsin, this 1 day of November, 2006.

/s \_\_\_\_\_  
LYNN ADELMAN  
District Judge